

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Richard Lowery, on behalf of himself
and others similarly situated,

Plaintiff,

v.

Texas A&M University System, et al.,
Defendants.

CIVIL ACTION NO.
4:22-cv-03091

JUDGE CHARLES ESKRIDGE

PLAINTIFF’S THIRD ADDITIONAL NOTICE TO THE COURT

On August 14, 2023, the Texas A&M faculty senate held a meeting, with Acting President Mark Welsh III in attendance. The full video of this meeting is available at <https://mediasite.tamu.edu/Mediasite/Play/27417399497b4b4aa597fda119c25be41d>.

During this meeting, Acting President Welsh was asked about the implementation of SB 17 and how it would affect the university. His answer begins at the 42:00 mark and ends at 43:53, and includes the following:

I was actually fairly pleased with the interpretation the General Counsel took of [Senate] Bill 17 The only specific references to shutting things down were to activities that had D, E, and I in the title, that were labelled as D, E, and I, and did work in that field, those are restricted by the state bill. . . . I actually was, not pleasantly surprised because I’m not pleasantly surprised by anything related to this bill, but it was actually something that led me to believe we can actually comply with the law, and we can still do the things that make sense to do as we prepare men and women to go work in communities that have people of all colors, all language backgrounds, all socioeconomic strata, they got to go live in a big world and we need to prepare them to do it. And so I don’t think there’s anything that’s going to be in there

that’s going to stop us from doing the things we need to do, including targeted recruiting.

There are several notable features of this statement from Acting President Welsh, who has been automatically substituted for former president Banks as a named defendant in this lawsuit. *See* Fed. R. Civ. P. 25(d). The first is that Acting President Welsh (as well as the general counsel’s office at Texas A&M) appears to believe that SB 17 requires only the termination of programs or activities with the words “diversity,” “equity,” or “inclusion” in their title. This indicates that Texas A&M intends to continue allowing discriminatory programs or activities—including faculty-hiring practices that discriminate on account of race or sex—so long as they can do so while avoiding the nomenclature associated with “diversity,” “equity,” or “inclusion.” The second is that the Acting President (and the general counsel’s office) believe that SB 17 allows Texas A&M to continue doing “the things that make sense to do” and “the things we need to do,” which presumably includes the discriminatory faculty-hiring goals that *still* appear on the university’s website.¹ The third is that the Acting President specifically endorsed the practice of “targeted recruiting.” It is not clear what exactly the Acting President meant by “targeted recruiting,” or whether he was referring to the recruitment of students or faculty (or both). But these are not the words that one would expect to hear from a university president who intends to enforce colorblind and sex-neutral faculty-hiring practices in response to SB 17.

CONCLUSION

The motion to dismiss for lack of justiciability should be denied.

1. *See* <https://diversity.tamu.edu/Home/Strategic-Planning> (last visited on August 17, 2023); *see also* ECF No. 34-1.

Respectfully submitted.

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Dated: August 17, 2023

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CERTIFICATE OF SERVICE

I certify that on August 17, 2023, I served this document through CM/ECF upon:

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